

REMARKS

Claims 1-5, 7-13, 20 and 21 are pending and currently stand rejected.

Rejections under 35 U.S.C. § 103

1. Claims 1-5, 7, 11, 13, 20 and 21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Canada et al. (U.S. Patent No. 7,118,761), in view of Camden et al. (U.S. Patent No. 6,136,835).

Claims 1-5, 7, 11, 13, 20 and 21 were rejected under 35 U.S.C. § 103(a) as being obvious over Canada et al. (U.S. Patent No. 7,118,761), in view of Hill et al. (U.S. Patent No. 6,136,835). Applicants respectfully traverse the rejection and submit that the claims are not obvious for the following reasons.

The test which must be met for a reference or a combination of references to establish obviousness has not been satisfied in the instant matter. The MPEP states, in relevant part, the proper test for obviousness:

Office policy is to follow *Graham v. John Deere Co.* in the consideration and determination of obviousness under 35 U.S.C. § 103 ...

[T]he four factual inquiries enunciated therein as a background for determining obviousness are as follows:

- (A) Determining the scope and contents of the prior art;
- (B) Ascertaining the differences between the prior art and the claims in issue;
- (C) Resolving the level of ordinary skill in the pertinent art; and
- (D) Evaluating evidence of secondary considerations. (MPEP § 2141).

When applying 35 U.S.C. § 103, the following tenets of patent law must be followed: 1) the claimed invention must be considered as a whole; 2) the references must be considered as a whole; 3) the references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention; and 4) reasonable expectation of success is the standard with which obviousness is determined. MPEP § 2141 II. The cited references do not satisfy this required burden to establish a finding of obviousness.

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The Office Action alleges, on page 2, that Canada teaches a silver salt which is a complex of Ag^+ and an anionic polymer (lines 21-42 of column 8). However, the presently-pending claims recite that the anionic polymer is a polycarboxylate polymer. Canada does not disclose an anionic polycarboxylate polymer. No anionic polycarboxylate polymer is taught by Canada, neither in the cited passage, nor anywhere else in the patent. This fact is acknowledged on page 4 of the Office Action.

Further still, anionic polymers are not even taught in general by Canada. Canada teaches only ion-exchange resins, zeolites, and substituted glass compounds. Canada goes on to exemplify sodium hydrogen zirconium phosphate, as well as calcium phosphate, as examples of silver ion containing compounds of the patent.

Further highlighting the fact that Canada does not disclose a complex of Ag^+ and an anionic polycarboxylate polymer, it is noted that Canada does not refer to polymers in any manner in connection with the passage cited in the Office Action, despite the fact that Canada refers to polymers elsewhere in the body of the patent. For the sake of clarity, Applicants respectfully request that the Examiner specifically identify the alleged anionic polymer in Canada if this rejection is maintained.

Additionally, Canada does not disclose or suggest a dyestuff that is a silver salt photostabilizer. The mere mention of dyes, in general, in the Canada patent does not provide any guidance as to which dyes may or may not have any particular properties. This is particularly so, because the Canada patent discloses dyes separately from any discussion of antioxidants. Again, for the sake of clarity, Applicants respectfully request that the Examiner specifically identify the alleged silver salt photostabilizing dyestuff in Canada if this rejection is maintained.

Regarding Hill, it is stated on page 4 of the Office Action that Hill's mere teaching of polycarboxylate polymers can provide the skilled artisan with the motivation to combine Hill and Canada to arrive at Applicants' presently-claimed invention. Applicants respectfully submit that this statement does not meet the burden of proof required to establish a prima facie case of obviousness.

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The teachings of Hill are, in fact, in contrast to those of Canada, making the references unsuitable for combination as alleged in the Office Action. The polycarboxylate polymers disclosed in Hill are taught to be transferred to the surface that is contacted with the material substrate taught in Hill. For example, in the section of Hill regarding “Polymers”, to which the Office Action directs Applicant, paragraph [0140] states:

In optional embodiments of the invention, polymeric material that improves the hydrophilicity of the surface being treated is incorporated into the present compositions. The increase in hydrophilicity provides improved final appearance by providing "sheeting" of the water from the surface and/or spreading of the water on the surface, and this effect is preferably seen when the surface is rewetted and even when subsequently dried after the rewetting. Polymer substantivity is beneficial as it prolongs the sheeting and cleaning benefits. Another potential feature of these polymers is lack of visible residue upon drying.

Paragraph [0141] further states, “The hydrophilic polymers preferably are attracted to surfaces and are absorbed thereto without covalent bonds.” Clearly, Hill is referring to the transfer of polymers from the cleaning device to a surface which is being cleaned by the cleaning device. Hill refers to the residual properties of the surface that is cleaned, by virtue of the polymers that were transferred to the surface from the cleaning device.

The polymers of Hill, including the polycarboxylate polymers referred to in the Office Action, are not a part of the substrate, but instead, are intended to be transferred to another surface. In other words, the polymers taught by Hill are not part of, nor are they retained on, the initial substrate, but are designed to be deposited on another surface and/or material as an objective of the invention of Hill. Therefore, when Hill is properly read as a whole, one of skill in the art would not interpret Hill as teaching a substrate which comprises a polymer, but rather, Hill would be properly read as teaching a substrate which allows the transfer or delivery of a polymer to another surface. In effect, Hill teaches one of skill in the art how to avoid the production of a substrate which comprises a polymer.

The teachings of Hill are in contrast with the teachings of Canada for a number of reasons. For example, Canada teaches that it is undesirable to have transfer of materials from the wound dressing to the wound (*See* line 66, column 7, through line 7, column 8: “Second, because the fabric is synthetic, the wound care device is very durable and generates less lint than its natural counterpart, representing a reduced likelihood of infection in a wound caused by the lint and fiber from the wound care device itself. Third, the fabric's nonwoven construction does

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not unravel when cut, thereby further reducing the chance that loose fibers and lint will enter the wound site and lead to possible infection.”).

As set forth above, it is acknowledged on page 4 of the Office Action that Canada does not teach or suggest a carboxylate polymer, and therefore, does not teach or suggest a complex of a carboxylate polymer with Ag⁺. Hill does not cure this deficiency, as the teachings of polymers by Hill is inapposite to the teachings of Canada, and in fact, Hill’s teachings are in contrast with the teachings of Canada, and therefore, teaches away from the objective set forth by Canada. Therefore, as the combination of Canada and Hill does not provide any guidance or motivation for the skilled artisan to arrive at the claimed invention, and as a result, the skilled artisan would have no reasonable expectation of success in arriving at the claimed invention by combining the two references. Applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. § 103(a). Applicants respectfully submit that claims 1-5, 7, 11, 13, 20 and 21 are not obvious, and are in condition for allowance.

2. Claims 8-10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Canada et al., in view of Camden et al. (US 6,136,835) and Hill et al.

Applicants respectfully submit that claims 8-10 are allowable as depending from an allowable independent claim for the reasons stated above. Canada does not teach, suggest, or otherwise disclose a complex of Ag⁺ and an anionic polycarboxylate polymer, nor a dyestuff that is a silver salt photostabilizer. Hill does not cure this deficiency, as set forth above, and teaches away from Canada. Camden does not cure the deficiencies of Canada and Hill, as Camden also does not teach, suggest, or otherwise disclose a complex of Ag⁺ and an anionic polycarboxylate polymer, nor a dyestuff that is a silver salt photostabilizer.

Accordingly, this combination of references does not provide any guidance or motivation for the skilled artisan to arrive at the claimed invention, and as a result, the skilled artisan would have no reasonable expectation of success in arriving at the claimed invention. Applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. § 103(a). Applicants respectfully submit that claims 8-10 are in condition for allowance.

3. Claim 12 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Canada et al., in view of Hirsch (US 1,962,900) and Hill.

Applicants respectfully submit that 12 is allowable as depending from an allowable independent claim for the reasons stated above. However, for the sake of completeness, applicants submit that the rejection of 12 under 35 U.S.C. § 103(a) as being unpatentable over Canada et al. in view of Hirsch and Hill is improper for the following reasons. Hirsch does not cure the deficiency of Canada and/or Hill, as Hirsch does not teach, suggest, or otherwise disclose a complex of Ag⁺ and an anionic polycarboxylate polymer, nor a dyestuff that is a silver salt photostabilizer.

Accordingly, this combination of references does not provide any guidance or motivation for the skilled artisan to arrive at the claimed invention, and as a result, the skilled artisan would have no reasonable expectation of success in arriving at the claimed invention. Applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. § 103(a). Applicants respectfully submit that claim 12 is in condition for allowance.

Summary

Applicants respectfully submit that the claims are in condition for allowance. An early Notice of Allowance is therefore earnestly solicited. Applicants invite the Examiner to contact the undersigned at (215) 963-5809 to clarify any unresolved issues raised by this response.

The Director is hereby authorized to charge/credit Deposit Account No. **50-0310** (Billing No. 101713-5041) for any other required fees, deficiencies or overpayments in connection with this Response.

Respectfully submitted,

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